IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

CRP.No. 801 of 2007(A)

AGAINST THE ORDER DATED 12/04/2007 IN EA.261/07 IN EP.573/03 IN OS.538/2000 OF PRL.MUNSIFF COURT.,KANNUR.

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PETITIONER/PETITIONER/RESPONDENT:

A.KELAN, S/O. KUNHAPPA, AGED 69 YEARS,
RESIDING AT CHELERI AMSOM, DESOM,
NEAR GOVT. MAPPILA SCHOOL, P.O.CHELERI,
KANNUR.

BY ADV. SRI.P.U.SHAILAJAN.

RESPONDENT/RESPONDENT/PETITIONER:

V.P.ABDURAHIMAN, S/O. ABOOBACKER,
AGED 57 YEARS, EMPLOYED AT DUBAI, PERMANENT
RESIDENT OF CHELERI AMSOM, KARAYAN DESOM,
KANNUR, REP. BY HIS P/A. HOLDER, U.ABDULLA HAJI,
S/O. MOHAMMED HAJI, AGED 69 YEARS, RETD. TEACHER,
RESIDING AT CHELERI AMSOM, DESOM, KANNUR.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 27/09/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.801 OF 2007

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Dated this the 27th day of September 2007

ORDER

This revision petition is preferred against the order in E.A.No.261 of 2007 in E.P.No.573 of 2003 in O.S.No.538 of 2000 of the Munsiff's Court, Kannur. The petitioner is the respondent in the E.P. The suit was decreed after fixation of the boundary and the execution petition E.P.No.573/2003 is filed to execute such a decree. The respondent in the E.A. contended before the court below that the property is not identifiable and therefore the execution petition has to be dismissed. It was resisted by the decree holder. The court below, on a consideration of the entire materials, found that O.S.No.538/2000 which was a suit for fixation of western boundary of the plaint schedule property was decreed and Ext.C4 plan marked therein was made a part of the decree. As per the decree, the line BKIGE marked by the Commissioner in C4 plan was fixed as the western boundary of the plaint schedule property. It is discernible from the facts that the said decree has not been challenged and it has become final. Now when the said decree is put into execution contentions are raised to the effect that there is no

such property and the property had not been properly identified. Therefore the decree is unexecutable and the execution petition has to be dismissed. The respondent cannot be permitted to raise such a contention at all, when he is faced with a decree which has clearly granted a relief to the person. Therefore the contention that the decree is not executable cannot be accepted. The other matters, if any, are within the realm of the court in executing the decree to consider. Therefore C.R.P. is dismissed.

M.N.KRISHNAN, JUDGE

Cdp/-